

REMARKS

Claims 1-24 were pending in this application.

Claims 1-24 have been rejected.

No claims have been amended.

Claims 1-24 remain pending in this application.

Reconsideration and full allowance of Claims 1-24 are respectfully requested.

I. REJECTIONS UNDER 35 U.S.C. § 103

The Office Action rejects Claims 1, 2, 7, and 8 under 35 U.S.C. § 103(a) as being unpatentable over Canadian Patent Application 2,301,935 to Ranjan et al. (“*Ranjan*”) in view of U.S. Patent No. 4,422,105 to Rodesch et al. (“*Rodesch*”). The Office Action rejects Claims 3, 4, 9, 10, and 15-17 under 35 U.S.C. § 103(a) as being unpatentable over *Ranjan* and *Rodesch* in further view of “Admitted Prior Art” (“*APA*”). The Office Action rejects Claims 5, 6, 11, and 12 under 35 U.S.C. § 103(a) as being unpatentable over *Ranjan* and *Rodesch* in further view of U.S. Patent No. 6,442,658 to Hunt (“*Hunt*”). The Office Action rejects Claim 13 under 35 U.S.C. § 103(a) as being unpatentable over *APA* in view of *Ranjan*. The Office Action rejects Claim 14 under 35 U.S.C. § 103(a) as being unpatentable over *APA* and *Ranjan* in further view of *Rodesch*. The Office Action rejects Claims 18 and 19 under 35 U.S.C. § 103(a) as being unpatentable over *APA*, *Ranjan*, and *Rodesch* in further view of *Hunt*. The Office Action rejects Claim 20 under 35 U.S.C. § 103(a) as being unpatentable over *APA* and *Ranjan* in further view of Leins et al., “Tivoli Storage Manager Windows 2000” (“*Leins*”). The Office Action rejects Claim 21 under 35 U.S.C. § 103(a) as being

unpatentable over *APA*, *Ranjan*, and *Rodesch* in further view of *Leins*. The Office Action rejects Claims 22-24 under 35 U.S.C. § 103(a) as being unpatentable over *Ranjan*, *Rodesch*, and *APA* in further view of *Leins*. These rejections are respectfully traversed.

The Applicant filed a Preliminary Amendment on August 6, 2001, which amended this application to claim priority to U.S. Patent Application No. 60/176,563 filed on January 18, 2000.

Ranjan is a Canadian patent application. A description of *Ranjan* from the Canadian Intellectual Property Office is included in the Appendix. As shown in the Appendix, *Ranjan* was filed with the Canadian Intellectual Property Office on March 22, 2000. *Ranjan* was opened for public inspection on September 23, 2000. Because *Ranjan* became public after the priority date for this application, *Ranjan* does not qualify as prior art against this application under 35 U.S.C. § 102(a) or § 102(b).

Ranjan does claim priority to two U.S. provisional patent applications. However, *Ranjan* does not qualify as prior art under 35 U.S.C. § 102(e). The two U.S. provisional patent applications were not published under 35 U.S.C. § 122(b). Also, no patents have been granted from the two U.S. provisional patent applications. In addition, as shown in the Appendix, *Ranjan* was not filed under the Patent Cooperation Treaty. As a result, *Ranjan* does not qualify as prior art against this application under 35 U.S.C. § 102(e).

For these reasons, *Ranjan* cannot be cited as prior art against Claims 1-24. Since Claims 1-24 are all rejected in some way over *Ranjan*, the Office Action has not established a *prima facie* case of obviousness against Claims 1-24. Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection and full allowance of Claims 1-24.

DOCKET No.: US 000013
SERIAL No. 09/691,334
PATENT

II. CONCLUSION

The Applicant respectfully asserts that all pending claims in the application are in condition for allowance and respectfully requests an early allowance of such claims.

SUMMARY

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at wmunck@davismunck.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication (including any extension of time fees) or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: Dec 24, 2008



William A. Munck
Registration No. 39,308

P.O. Drawer 800889
Dallas, Texas 75380
(972) 628-3600 (main number)
(972) 628-3616 (fax)
E-mail: wmunck@davismunck.com